

Council Comments:

Citizens Research Council of Michigan

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STATE BALLOT ISSUE "C" --PROHIBIT USE OF PUBLIC MONEY FOR SUPPORT OF NON-PUBLIC SCHOOLS--

State Proposition "C" on the November 3 ballot is a proposed amendment to Article VIII, Section 2 of the state constitution, which according to the ballot instructions, would:

- "A. Prohibit use of public funds to aid any non-public elementary or secondary school.
- B. Prohibit use of public funds, except for transportation, to support the attendance of any students or the employment of any person at non-public schools or at any other location or institution where instruction is offered in whole or in part to non-public school students;
- C. Prohibit any payment, credit, tax benefit, exemption or deductions, tuition voucher, subsidy, grant or loan of public monies or property, directly or indirectly, for the above purposes."

A "yes" vote would prohibit aid to non-public schools; a "no" vote is supportive of aid to non-public schools.

Considerable confusion and controversy exist concerning this ballot issue. Proponents and opponents of parochial aid, however, both agree on two points:

-- Direct public payments by the state or local units to non-public schools would be prohibited; and

-- Transportation of private school students could be continued at public expense by legislative approval.

But agreement on the full impact of the amendment stops at these two points. A barrage of conflicting arguments has arisen over the full implication of the proposed amendment. Unfortunately the voter will not have the benefit of court interpretation as a guide--that would come only if the amendment is adopted.

Background

Legislative policy forty years ago resulted in a position against direct support of non-public schools which position stood firm until the 1970 legislative session:

"No school district shall apply any of the moneys received by it from the primary school interest fund or from any and all other sources for the support and maintenance of any school of a sectarian character . . ." (CL 1929,7379).

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However, the original school transportation law of 1939 permitted indirect aid to nonpublic schools:

"The provisions of this section shall not be construed to prohibit the transportation to and from school of pupils attending private or parochial schools . . ." (CL 1948,352.20).

Twenty-four years later the school bus law was amended to require free transportation for Students in non-public schools (Act 241, PA 1963).

In 1965 indirect assistance to non-public schools was further extended by Public Acts 341 and 343. Under these two laws any auxiliary services provided by a school district or local health department to resident children attending public schools must also be provide on an equal basis to children attending non-public elementary and high school grades. Such auxiliary services include:

- * Health and nursing services and examinations;
- * Speech correction;
- * Street crossing guard services;
- * Remedial reading;
- * Visiting teacher services for delinquent and disturbed children;
- * Diagnostic services for mentally handicapped children;
- * Teacher counsellor services for physically handicapped or emotionally disturbed children; and
- * National defense education testing services.

Because of their indirect nature, no firm data exist concerning the cost of providing auxiliary services to non-public schools. However, the 1968 Michigan School Finance Study (Thomas Report) indicated that in 1965-66 the value of such services to participating Roman Catholic schools was \$5.2 million. This amount obviously would be greater if data from other participating non-public schools had been included.

Recent estimates indicate that approximately 270,000 elementary and secondary students attend nearly 900 non-public schools in Michigan. All but a small fraction of these students attend parochial schools financed by or affiliated with three religious groups--Roman Catholic, Lutheran and Christian Reformed.

Supporters of non-public schools in recent years have stated that rapidly rising operating costs have threatened the continued existence of such schools. The assertion is made that unless public aid is provided, most non-public schools will be forced to close. Perhaps higher instructional costs is-the one factor which contributed most to increased costs of non-public schools. Instructional cost increases resulted from higher salary schedules, reductions in services by religious staff members, and lower teacher-pupil ratios.

1970 Parochiaid Highlights

Legal Basis. Proposition "C" appears on the state ballot as a result of a citizens' initiated petition--the first such action to be taken under the 1963 constitution.

Article XII, Section 2 of the Constitution provides that amendments may be propose petition of registered electors equal in number to at least ten per cent of the total vote cast for all candidates for governor at the preceding general election. It further provides that the proposed amendment, as it appears on the ballot, shall contain a statement of purpose expressed in not more than 100 words. If the proposed amendment is approved by a majority of electors voting on the question, it becomes a part of the constitution 45 days a ma after the election date.

Legislative Action. The events providing the impetus for the initiatory petition on the parochiaid question arises from unsuccessful attempts in recent years by the legislature to provide direct financial aid to non-public schools. In the 1970 legislative session, however, advocates of such financial aid were successful in attaching a section to the public school aid act which in part contains the following language:

"The legislature declares as public policy of the state that the public good and general welfare require that state appropriations now provided to public school districts under this act for the purpose of furnishing opportunities for public school children to secure a quality secular education be extended to assist in providing opportunities for quality secular education to children attending non-public elementary and high schools, as part of a general program to foster and encourage knowledge so as to provide a mature citizenry capable of contributing to good government, and to the safety and the economic well-being of all the people of the state."

The act provides that the state will pay to an eligible non-public school, for the fiscal years 1971 and 1972, a sum not to exceed 50 per cent of the salaries of certified lay teachers who teach secular subjects. In years following, state aid would equal 75 per cent of such salaries. For the 1971 fiscal year, \$22 million has been appropriated; in years to follow, the total amount of parochial aid would be limited to not more than two per cent of total state-local spending for public schools in the preceding fiscal year--about \$35 million at present levels.

The act also provides that prior to the effective date of the school aid law the legislature request an advisory opinion from the state supreme court on the constitutionality of the parochial aid provision.

Petitions. Early in 1970 several groups, joining as a council against parochial aid, commenced circulating petitions to obtain some 264,000 valid signatures necessary to place the proposed amendment on the November ballot.

Petitions Ruled Invalid. Late in May the attorney general, responding to a request from a member of the house of representatives, ruled the petitions invalid on the grounds that it was impossible to determine from the petition wording whether its purpose was to abrogate the education section of the constitution and replace it with new language, or to amend that section, or to add new language to the section.

Petitions Filed. In late June and early July the council against parochial aid filed the initiatory petitions with the secretary of state for certification of placement of the issue on the November ballot. Soon thereafter, the board of canvassers, acting on the earlier ruling of the attorney general, refused to process the petitions.

Canvassers Ruling Appealed. In mid-July the anti-parochial aid sponsors petitioned the Michigan court of appeals to order the board of canvassers to place the proposed amendment on the November ballot. On September 2, the court by a 2-1 vote invalidated the attorney general opinion and ruled the petitions conformed to legal requirements and, if approved by the voters, the text of the proposed amendment would be added to the section of the constitution relating to education.

Supreme Court Opinion Sought. The day following the court of appeals action, the attorney general filed an appeal with the Michigan supreme court to overturn the lower court decision. On September 15, the supreme court handed down two rulings:

First, by a 5-2 decision, the court denied the attorney general's appeal and affirmed the court of appeals ruling that the initiatory petitions met legal requirements.

Second, the supreme court handed down its advisory opinion and in a 4-3 landmark decision, found the parochial aid provision of the 1970 school aid act (appropriating \$22 million for the salaries of lay teachers who teach secular subjects in non-public schools) to be constitutional.

Pros and Cons

As indicated above, this ballot issue is involved in considerable confusion and controversy charges and countercharges. In the main, however, the following are representative of the arguments advanced by the supporters ("pro") and opponents ("con") of ballot proposition "C".

Pro: Arguments in favor of a "yes" vote prohibiting aid to non-public schools.

1. The integrity of a strong public school system must be protected from encroachment by non-public schools.
2. The proposition would prohibit direct payment of public funds (specifically \$22 million appropriated by the state in fiscal year 1971) as financial aid to non-public schools.
3. Separation of state and church must be maintained; a prohibition on the use of public funds for non-public schools is in keeping with this constitutional tenet.
4. The proposition is aimed specifically at prohibiting the use of public funds in non-public elementary and secondary schools.

Con: Arguments in favor of a "no" vote supporting aid to non-public schools.

1. The state is basically responsible for educating all school children. The social well being of our society requires that the state be concerned with the quality of education provided every child, whether attending public or non-public schools, and the competition provided by a dual school system is advantageous
2. The proposition goes too far--it would not only prohibit direct aid, but it would also prohibit the continuation of existing indirect assistance to non-public schools including:
 - a. Auxiliary school services (see page 2 for list).
 - b. Dual programs operated by public schools which are attended by non-public school students.
 - c. Driver education courses and library services.
 - d. Shared time arrangements, including the leasing of non-public school buildings by public school systems for secular instruction of non-public school students.
3. The principle of direct financial aid to non-public schools in Michigan is now legally in effect--it has been approved by the legislature, approved by the governor and held constitutional by the supreme court.
4. The language of the proposition is so broad that it could:
 - * Prohibit payments from the state scholarship fund to students attending non-public colleges;
 - * Prohibit credit now permitted on state income tax returns for contributions to private colleges;
 - * Prohibit state subsidies for dental education now paid to the University of Detroit;
 - * Prohibit the granting of exemption from property taxes currently granted to church-owned schools; and
 - * Prohibit activities between public and non-public schools in public facilities.